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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/812,910

03/31/2004

Roland Boltz

0598-1001

5706

466

7590

10/20/2006

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EXAMINER

EPPS, TODD MICHAEL

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/812,910	BOLTZ ET AL.	
	Examiner	Art Unit	
	Todd M. Epps	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the third Office Action **final** for serial number 10/812,910, Perforated Section Supporting Device Adapted To Be Fixed To A Surface Such As A Ceiling, filed on March 31, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 2-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, line 2, the word "perforated section" cites combination / subcombination problem. "Perforated section" is not positively cited in the preamble of claim 1, and it is considered as functional language. The applicant is not claiming "perforated section" in the body of claim.

Claims 3-4 are rejected as depending in claim 2. Claim 5 is rejected as depending in claim 4, and claim 6 is rejected as depending in claim 5.

Claim Rejections - 35 USC § 103

Claims 1-2, and 4-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent No. 0108222 A2 to Rieth.

Rieth '222 discloses a fixing device (fig. 1) adapted to be fixed to a surface and to received a perforated section, wherein device comprising a plate (3) and a support (17) and having a wall (30) substantially perpendicular to a plate (3), and at least two claws (16) with the same orientation adapted to cooperate with corresponding perforations of a perforated section, wherein the wall includes a precut locking lug (18-19) adapted to be bent; wherein a support has two parallel walls (fig. 1), the distance between the parallel walls corresponds to the distance between the branches of U-section, each of the parallel walls has at least one claw (16), all claws have the same spatial orientation, and at least one of the parallel walls has a locking lug (fig. 1); wherein the claws are produced by cutting a tongue into the corresponding wall and bending it along two transverse bending lines (fig. 2), wherein the locking lug (18) is aligned with the claws on the same wall (fig. 2), and is adapted to be bent along a bending line perpendicular to the bending lines of the claws, wherein the locking lug (18) is trapezium-shaped (fig. 2); and wherein a locking lug is adapted to be bent along a fold line that is generally parallel to a longitudinal axis of a support. However Rieth '222 fails to teach wherein a locking lug adapted to be bent into another one of the perforations. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified a locking lug to be adapted to be bent into the perforation

Art Unit: 3632

wherein doing so would provide thereof for a maximum connecting interaction with the supports to increase stiffness.

Regarding claims 4-6, and 15, Rieth '222 discloses two fixing plates with two lugs extending at a right angle from one end of a wall, and made by cutting and bending sheet metal, however, fails to specifically teach wherein a support is a substantially rectangular-section tube, and has a longitudinal slot at one corner. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add two more walls with one wall a bit smaller to form a rectangular-section tube with a longitudinal slot at one corner wherein doing so would provide maximum connecting interaction with the supports to increase stiffness.

Regarding claims 11-13, Rieth '222 discloses a fixing device as applied above, however Rieth '222 fails to teach wherein two claws on one of walls being bent along a first fold line in a first direction into the interior space and at least two claws on the other of two walls being bent along a second fold line parallel to the first fold line in the first direction away from the interior space. Since Rieth '222 discloses two walls (fig. 1), it would have been obvious to one of ordinary skill in the art at the time the invention was made to reversed one wall to form one direction away from the interior space while the other fold line is in a direction into the interior space wherein doing so would provide maximum connecting interaction with the supports to increase stiffness.

Art Unit: 3632

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rieth '222 in view of U.S. Patent No. 3,263,388 to Bogert.

Rieth '222 discloses the previous invention failing to specifically teach two parallel walls, wherein the walls are connected by a base perpendicular to each of the parallel walls and to the fixing plate. Attention is directed to Bogert '388 reference, which teaches two parallel walls are connected by a base perpendicular to each of the parallel walls and to the fixing plate. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide parallel walls of Rieth '222 with walls connected by a base perpendicular to each of the parallel walls and to the fixing plate as taught by Bogert '388 wherein doing so would provide for superior mounting on ceiling.

Response to Arguments

Applicant's arguments filed August 16, 2006 have been fully considered but they are not persuasive.

Claims 2-6 are **still** rejected under U.S.C. 112, second paragraph. The word "perforated section" cites combination / subcombination problem. "Perforated section" is not positively cited in the preamble of claim 1, and it is considered as functional language. The applicant is not claiming "perforated section" in the body of claim.

Applicant argues "the element 18 is not adapted to be bent into one of the perforations of the perforated section and does not cooperate with an edge of this perforation to immobilize the perforated section against movement in translation."

Art Unit: 3632

Since the word “perforated section” cites combination / subcombination problem, the applicant is not claiming the perforated section. In this case, the fixing device of Rieth '222 with a locking lug (18) is able to bent into one of the perforations of the perforated section. Further, in claim 1, lines 9-12, the phrase with “wherein said wall includes a precut locking lug **adapted** to be bent into another one of the perforations.....” and with the word “adapted”, it is considered as a functional language. Therefore, Rieth '222 with a locking lug is able to perform to be bent into one of the perforations of the perforated section.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Next applicant argues “Rieth '222 does not disclose that the support has two parallel walls that are integrally joined to each other.” Attention is directed to Rieth '222, figure 1, wherein the support has two parallel walls that are integrally joined to each other with the perforated section (5) as one piece.

Regarding claims 4, and 15, applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that

Art Unit: 3632

any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant argues "Rieth '222 does not disclose the substantially rectangular-section tube." As stated in the Office Action, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add two more walls with one wall a bit smaller to form a rectangular-section tube with a longitudinal slot at one corner wherein doing so would provide maximum connecting interaction with the supports to increase stiffness.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

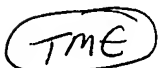
Art Unit: 3632

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Todd M. Epps
Patent Examiner
Art Unit 3632
October 11, 2006



Joey Wujciak
Primary Examiner
Art Unit 3632